

9.01 CODE OF ZONING

(1) INTERPRETATION AND PURPOSES. The provisions of this ordinance shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the Village of Hilbert, Wisconsin. It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing easements, covenants agreements between parties or with any rules, regulations, or permits previously adopted or issued pursuant to laws; provided, however, that where this ordinance imposes a greater restriction upon the use of buildings or premises, or upon the height of a building or requires larger open spaces than are required by other rules, regulations or permits or by easements, covenants or agreements the provisions of this ordinance shall govern.

(2) DISTRICTS.

(a) For the purposes of this ordinance, the Village of Hilbert, Wisconsin, is hereby divided into six (6) districts as follows:

R-1 Single Family Residence District
R-2 Multiple Family Residence District
C- Commercial District
I Industrial District
M.H. Mobile Home District
A Agricultural District
P.D. Planned Development District

(b) Boundaries. The boundaries of the aforesaid districts are hereby established as shown on the map entitled "Zoning Map, Village of Hilbert, Wisconsin", which map accompanies and is made a part of this ordinance. All notations and references shown on the district map are as much a part of this ordinance as though specifically described herein.

1. The district boundaries are either street, alleys, railroads or lot lines, unless otherwise shown and where the designation on the district map indicates that the various districts are approximately bounded by a street, alley, railroad or lot line, such lot line or the center line of such railroad, street or alley should be construed to be the district boundary line.

2. In unsubdivided property, the location of the district boundary lines shown on the district map shall be determined by the use of the scale shown on such map.

(c) District Map. There shall be a certified copy of the Zoning Map described above. Such copy shall be kept in the office of the Village Clerk, and shall be available for inspection by any person during regular office hours. Such copy shall bear on its face the notation that it is the certified copy of the Zoning Map, the certificate to be signed by the Village President and attested by the Village Clerk, and bearing the number and date of adoption of the ordinance. Thereafter no amendment to this ordinance which causes a change in the boundaries of any district shall become effective until such change, together with a certificate describing the change, has been shown on the face of such certified copy. Such certificate of amendment shall be likewise signed by the Village President, attested by the Village Clerk, and shall show the number of the amending ordinance and the date of its adoption.

(3) DEFINITIONS. For the purposes of this ordinance, certain words and terms are defined as follows: Words used in the present tense include the future; the singular number; the word "building" includes the word "structure"; the word "shall" is mandatory and not directory. The word "person" includes any partnership, association, organization, firm, trust, company or corporation. Any words not herein defined shall be construed as defined in the state and local building codes.

(a) Accessory Building or Use. A detached building on the same lot as the principal building, for storage or other incidental uses.

(b) Alley. A public or private way which affords only secondary vehicular access to abutting property.

(c) Apartment. One or more rooms in a multiple dwelling designed or intended to be occupied by a person, persons or family.

(d) Apartment House. See "Dwelling, Multiple."

(e) Automobile Wrecking Yard. Any premises on which more than one automotive vehicle, not in running or operating condition, is stored in the open.

(f) Basement. A story partly or wholly underground.

(g) Billboard. See "Sign."

(h) Boarding House. A building other than a hotel where meals, or lodging and meals, are furnished for compensation for persons not members of the resident family.

(i) Boathouse, Private. An accessory building for the storage only of boats.

(j) Building. Any structure used, designed or intended for the protection, shelter, enclosure or support of persons, animals or property. If a building is divided into separate parts of unpierced walls extending from the ground up, each part shall be deemed a separate building except for side yard requirements where manifestly inappropriate.

(k) Building, Accessory. See "Accessory Building or Use."

(l) Building, Height of. The vertical distance from the average established street grade in front of the lot or the finished grade at the front building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the average height of the highest gable of gambrel, hip or pitch roof.

(m) Building, Main. See "Main Building or Use."

(n) Cellar. See "Basement."

(o) Clinic. An establishment for the medical examination and treatment of patients, but without provisions for keeping such patients overnight on the premises. For the purposes of this ordinance, a doctor's office in his own home, when it complies with the other requirements of this ordinance, shall not be considered a clinic, but any doctor's office which is not a part of his own home, and the office of two or more doctors, whether in a residence or not, shall be considered a clinic.

(p) Club. An association of persons for some common social purpose, not including those organized to render a service customarily carried on as a business.

(q) Court. An open space, other than a yard, on the same lot with a building.

(r) District. A part or parts of the Village of Hilbert for which the regulations governing the height, location and use of buildings and the size of lots and open spaces are uniform.

(s) Drive-In Service. A place of business where customers are served in their automobiles.

(t) Dwelling, One Family. A detached building designed for and occupied exclusively by one family, but not including hotels, motels, nursing homes, seasonal cabins, boarding or rooming houses, tourist homes or mobile homes.

(u) Dwelling, Two Family. A detached or semidetached building designed for and occupied exclusively by two families.

(v) Dwelling, Multiple. A building or portion thereof designed for and occupied by more than 2 families, including tenement houses, row houses, apartment houses and apartment hotels.

(w) Exception. The use of property, including the use and location of buildings, the size of lots and the dimensions of required yards, otherwise not allowable under the terms of this ordinance for which a special permit may be issued under conditions specified in this ordinance.

(x) Family. One or more persons living together in one dwelling unit as a single housekeeping entity; provided that a family shall consist of not more than 5 such persons when not related by birth or marriage.

(y) Farming. The principal use of land for the raising and harvesting of crops or the keeping of livestock.

(z) Floor Area. The area within the exterior wall lines of a building; provided that the floor area of a dwelling as so defined shall not include space not usable for living quarters, such as basement or utility rooms, garage, breezeway and unenclosed porches.

(aa) Frontage. All the property abutting on one side of a street between 2 intersecting streets or all the property

abutting on one side of a street between an intersecting street and the dead end of a street.

(bb) Garages, Residential. An accessory building or space for the storage only of motor-driven vehicles.

(cc) Garages, Public. Any building or premises other than a residential or a storage garage, where motor-driven vehicles are equipped, repaired, serviced, hired, or sold.

(dd) Garage, Storage. A building or premises used for the storage only of motor-driven vehicles, pursuant to previous arrangements and not to transients, where no equipment, parts, fuel, grease or oil is sold and vehicles are not equipped, serviced, repaired, hired or sold.

(ee) Highway. See "Street."

(ff) Home Occupation. A gainful occupation, such as dressmaking, laundering, home cooking, handicraft and the like, conducted by members of a family only, within their place of residence.

(gg) Hotel. A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than 5 sleeping rooms with no kitchen facilities in any individual room or apartment.

(hh) Junk Yard. Any premises on which there is an accumulation of scrap metal, paper, rags, glass, scrap lumber or other scrap materials stored or customarily stored for salvage or sale, unless such accumulation shall be housed in a completely enclosed building, but not including such accumulations as are incidental to manufacturing conducted on the premises.

(ii) Kitchen. Space in a building designed, equipped or intended to be used for the preparation or cooking of food.

(jj) Less Restricted. The use of land or buildings first permitted in a certain district is less restricted than other uses first permitted in districts appearing earlier in the numerical order in which such districts are numbered in this ordinance.

(kk) Loading Space. An off-street space or berth on the same lot with a building, or continuous to a group of buildings

which it serves, and abutting on or having direct access to a street or alley, for the temporary parking lot of a commercial vehicle while loading or unloading cargo. A loading space is not a parking space for the purposes of this ordinance.

(ll) Lodging House. A building other than a hotel where rooms without board or kitchen facilities either in or in connection with such rooms are rented to persons not members of the resident family.

(mm) Lot. A parcel of land having a width and depth sufficient to provide the space necessary for one main building and its accessory buildings, together with the open spaces required by this ordinance and abutting on a public street or officially approved place.

(nn) Lot, Corner. A lot abutting on 2 or more streets at their intersection, provided that the interior angle of such intersection is less than 135 degrees.

(oo) Lot, Depth of. They mean horizontal distance between the front and rear lot lines.

(pp) Lot, Interior. A lot other than a corner lot.

(qq) Lot, Reversed Corner. A corner lot improved with a building, which faces at right angles to other buildings on interior lots in the same block.

(rr) Lot, Through. An interior lot abutting on 2 nonintersecting streets.

(ss) Lot, Width of. The shortest horizontal distance between the sidelines of a lot, measured at the rear of the required front yard.

(tt) Lot Lines. The lines bounding a lot as defined herein.

(uu) Main Building or Use. A building or use on a lot which constitutes the chief or primary use of the premises.

(vv) More Restricted. The use of land or buildings first permitted in a certain district is more restricted than other uses first permitted in districts appearing later in the numerical order in which such districts are numbered in this ordinance.

(ww) Motel. A building or group of buildings in which lodging, with no kitchen facilities in any individual room or apartment, and with not less than 1 off-street parking space provided for each such room or apartment.

(xx) Nonconforming Use. A building or premises lawfully used or occupied at the time of the passage of this ordinance or amendments thereto, which use or occupancy does not conform to the regulations of this ordinance or any amendments thereto.

(yy) Parking Lot. A building or premises off the public street, containing 1 or more parking spaces, open to the public free or for a fee, and providing access from a public street or alley to each parking space within such parking lot.

(zz) Parking Space. An unobstructed space in a parking lot designed for the temporary storage of 1 automobile. Each area, exclusive of maneuvering space and access from and to a public street or alley. A loading space is not a parking space for the purposes of this ordinance.

(aaa) Professional Office. The office of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician, artist or other recognized profession.

(bbb) Setback. The depth of the front yard. A setback required by this ordinance shall be measured horizontally on the lot, from and at right angles to the front lot line or the right of way line of a proposed street on the official map, whichever results in the greater front yard depth.

(ccc) Sign. A structure or device, except those placed by the public authorities for public purposes, on which advertising is displayed, or attention is directed to advertising on the same or any other structure, by any means visible to the eye.

(ddd) Stable. "Stable" shall have the same meaning as "garage," 1 draft animal being considered the equivalent of 1 self-propelled vehicle.

(eee) Story. That portion of a building included between the surface of a floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.

(fff) Story, Half. The space under any roof except a flat roof, the wall plates of which on at least 2 opposite exterior walls are not more than 4 feet above the floor of such story.

(ggg) Street. All property dedicated or intended for public or private street purposes or subject to public easements therefore, which affords the principal means of vehicular access to abutting property.

(hhh) Street Line. The dividing line between a lot, tract or parcel of land and an abutting street.

(iii) Structural Alterations. Any change in the supporting members of a building or any substantial change in the roof structure or in the exterior walls.

(jjj) Structure. Anything constructed or erected, which requires a permanent location on the ground or attachment to something having a permanent location on the ground.

(kkk) Use, Accessory. See "Accessory Building or Use."

(lll) Use, Main. See "Main Building or Use."

(mmm) Value, Market. That value at which a seller willing to sell, but not forced to sell, would sell to a buyer willing to buy, but not forced to buy.

(nnn) Variance. A departure from the terms of this ordinance as applied to a specific building or lot, which the board of appeals may permit, contrary to the regulations of this ordinance for the district in which such building or lot is located, when the board finds that a literal application of such regulations will cause a limitation on the use of the property which does not generally apply to other properties in the same district and for which there is no compensating gain to the public health, safety or welfare.

(ooo) Vision Clearance. An unoccupied triangular space at the street corner of a corner lot which is bounded by the street lines and a setback line connecting points specified by measurement from the corner on each street line.

(ppp) Yard. An open space on the same lot with a building unoccupied and unobstructed from the ground upward except as otherwise provided herein.

(qqq) Yard, Rear. A yard extending the full width of the lot between the rear lot line of the lot and the nearest wall of the principal building projected to the sidelines of the lot.

(rrr) Yard, Front. A yard extending the full width of the lot between the front lot line of the lot and the front line of the building projected to the sidelines of the lot.

(sss) Yard, Side. A yard extending from the front yard to the rear yard between the side lot line and the nearest wall of the principal building, excluding only such projections as are permitted hereinafter.

(4) GENERAL PROVISIONS. Except as otherwise provided in the ordinance, the following regulations shall apply to all districts:

(a) Buildings and Uses.

1. No provision of this ordinance shall be construed to bar an action to enjoin or abate the use or occupancy of any land, buildings or other structures as a nuisance under the appropriate laws of the State of Wisconsin.

2. No provision of this ordinance shall be construed to prohibit the customary and necessary construction, reconstruction or maintenance of overground or underground appurtenances thereto, where reasonably necessary for the public convenience and welfare.

3. The use of buildings hereafter erected, converted, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such land or building is located.

4. Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot and in no case shall there be more than 1 main building on 1 lot.

5. Nothing herein contained shall require any change in the plans, construction, size or designated use of any

building or part thereof for which a building permit has been issued before the effective date of this ordinance and the construction of which shall have been started within 6 months from the date of such permit.

6. Nonconforming Uses:

a. The existing lawful use of a building or premises at the time of the enactment of this ordinance or any amendment thereto may be continued although such use does not conform with the provisions of this ordinance for the district in which it is located, but no building or premises containing a nonconforming use to any part of a building which is, at the time of the adoption of this ordinance, primarily designed or intended for such nonconforming use, shall be deemed an extension within the meaning of this paragraph.

b. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of a more restricted classification. Whenever a nonconforming use has been changed to a more restricted nonconforming use or a conforming use, such use shall not thereafter be changed to a less restricted use. A nonconforming use shall not be changed to another nonconforming use of the same classification unless and until a permit therefore shall first have been secured from the board of appeals. A nonconforming use shall not be changed to a less restricted use at any time. See (3) of this section, "Less Restricted," "More Restricted," and (9) (b) of this ordinance.

c. If the nonconforming use of a building or premises is discontinued for a period of 12 months, any future use of the building or premises shall conform to the regulations for the district in which it is located. A reasonable interim between tenants or occupants shall be construed to mean discontinuance.

d. When a building containing a nonconforming use is damaged by fire, explosion, act of God or the public enemy to the extent of more than 60 percent of its current market value as determined by the village assessor, it shall not be restored except in

conformity with the regulations for the district in which it is located. The total structural repairs or alterations in any nonconforming use shall not during its life exceed 50 percent of the assessed value of the building at the time of its becoming a nonconforming use unless permanently changed to a conforming use.

e. Restoration of certain nonconforming principal or accessory buildings or structures.

1. Damage or Destruction. A nonconforming principal or accessory building or structure may be restored or repaired to the size, location and use that it had immediately before damage or destruction occurred, and without regard to the cost of such restoration, repairs, or improvements if both of the following apply:

a. The nonconforming principal or accessory building or structure was damaged or destroyed on or after March 2, 2006.

b. The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold or infestation.

The size of such nonconforming principal or accessory building or structure may be enlarged to the extent required to comply with applicable state and federal requirements.

2. Setback and Other Dimensional Requirements.

Nothing in this ordinance shall be deemed to prohibit, or limit based on cost, the repair, maintenance, renovation or remodeling of a nonconforming structure as defined under S. 62.23(7)(hb) of the Wisconsin Statutes. This paragraph shall control and take precedence over any other conflicting provision in the ordinance.

7. When a housing project consisting of a group of 2 or more buildings containing a total of 8 or more dwelling units is to be constructed on a site not subdivided into customary lots and streets, or where an existing lot and street layout makes it impractical to apply the requirements of this ordinance to the individual building

units, the village board may approve a development plan provided it complies with the regulations of this ordinance as applied to the whole of such site.

8. Residential Garages and Accessory Buildings.

a. HEIGHT

1. The sidewalls of any garage or accessory structure shall not exceed fourteen (14) feet in height.

2. The overall height of any garage or accessory structure may not exceed twenty (20) feet in height, except that the height may be increased one (1) foot for each foot that the required side and rear yard setbacks are increased. In no case, shall the height of the garage exceed the height of the principal building.

b. SIZE. Residential garages and accessory buildings shall comply with the following standards:

1. Attached Garages

(a) R-1 Single Family Residence District. Maximum size of one thousand two hundred (1200) square feet, or 100 percent (100%) of the principal dwelling floor area, whichever is less.

(b) R-2 Multiple Family Residence District. Maximum size of six hundred fifty (650) square feet for each unit's garage, or eighty percent (80%) of the size of each unit's floor area, whichever is less.

2. Detached Garages

(a) R-1 Single Family Residence District. Maximum size of one thousand two hundred (1200) square feet, or 100 percent (100%) of the principal dwelling floor area, whichever is less.

(b) R-2 Multiple Family Residence District. Maximum size of six hundred (600) square feet per dwelling unit.

3. Accessory Building.

Accessory buildings shall not exceed one thousand two hundred (1200) square feet of gross area.

4. Location and Density

(a) Detached garages and accessory buildings shall be set back at least as far as the principal building setback

(b) No part of the building shall be nearer than three (3) feet to any property line.

(c) Only one (1) garage and one (1) accessory building is permitted on a lot.

5. Appearance.

If the garage or accessory building is greater than three hundred (300) square feet the siding and roof material and color must substantially match that of the principal building. No rib steel siding shall be allowed.

9. The village board, after investigation and public hearing, may authorize the location of any of the following buildings or uses in any district from which they are excluded by this ordinance, provided that each such building or use shall comply with all other regulations for the district in which it is proposed to be located. In authorizing the location of such buildings or uses, the board may establish such conditions and safeguards as will further and protect the general purpose and intent of this ordinance.

a. Cemeteries.

b. Fire Stations.

c. Hospitals and clinics, but not veterinary hospitals and clinics.

d. Institutions of an educational, philanthropic or charitable nature.

e. Private clubs and lodges, excepting those the chief activity of which is a service customarily carried on as a business.

f. Public dumping ground.

g. Public utility buildings, structures and lines, including microwave radio relay structures and their appurtenances, for such purposes as are reasonably necessary for the public convenience and welfare.

h. Railroad siding and structures.

i. Sewage disposal plants.

j. Storage garage or parking area in connection with a housing development project, hospital or public or semi-public institution.

(b) Area Regulations.

1. No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this ordinance, nor shall the density of population be increased in any manner except in conformity with the area regulations hereby established for the district in which a building or premises is located.

2. Where a lot has an area less than the minimum number of square feet per family required for the district in which it is located and was on record as such at the time of the passage of this ordinance, such lot may be occupied by one family.

(c) Height Regulations.

1. Except as otherwise provided in this ordinance, the height of any building hereafter erected, converted, enlarged or structurally altered shall be in compliance with the regulations established herein for the district in which such building is located.

2. A basement shall be counted as a story for the purpose of height measurement if the ceiling is more than 5 feet above the mean level of the adjoining ground.

3. Churches, schools, hospitals, sanatoriums and other public and quasi-public buildings may be erected to a height not exceeding 60 feet nor 5 stories, provided the front, side and rear yards in the district in which such building is to be located are each increased at least 1 foot for each foot of additional building height above the height limit otherwise established for the district in which such building is to be located.

4. Ornamental structures, broadcasting towers, telephone, telegraph and power transmission poles, towers and lines, micro-wave radio relay structures and necessary mechanical appurtenances, and accessory structures essential to the use or protection of a building or to a manufacturing process carried on therein are hereby exempted from the height regulations of this ordinance and may be erected in accordance with other local regulations or ordinances; provided that any such structure which is accessory to a building in a residential district shall be located not less than 25 feet from any lot line.

5. Residences may be increased in height by not more than 10 feet when all yards and other required open spaces are increased by 1 foot for each foot by which such building exceeds the height limit otherwise established for the district in which it is located.

6. Where a lot abuts on 2 or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of 120 feet from the line of the higher average established grade.

7. On through lots which extend from street to street, the height of the main building may be measured from the mean elevation of the finished grade along the end of the building facing either street.

(d) Front, Side and Rear Yard Regulations.

1. No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this ordinance shall be included as part of a yard or other open space required for another building.

2. Any side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in

the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the 2 districts which abut the district boundary line. See (7C) and (8A) of this section, Height and Area Regulations (Side Yard).

3. Where 50 percent or more of a frontage is occupied by buildings having setbacks which are greater or less than the setback required by this ordinance for the district in which such frontage is located, the setback on the remainder of such frontage shall be the average setback of such buildings.

4. Where less than 50 percent of a frontage is occupied by buildings, the following setbacks shall apply.

a. Where a vacant lot abuts an occupied lot having a setback greater than is required by this ordinance, the setback on the abutting vacant lot shall be the average of the setback required by this ordinance for the district in which such lot is located and the setback on the occupied lot, or the average of such required setback and the lesser of the setbacks on the occupied lots, if the vacant lot abuts more than one occupied lot in the same frontage.

b. Where a vacant lot abuts a lot occupied by a building which has a setback less than is required by this ordinance, the setback on the vacant lot shall be the setback required by this ordinance for the district in which such lot is located.

5. No part of any building which has a setback less than is required by this ordinance shall be enlarged or structurally altered within the front yard established by the setback required by this ordinance for the district in which such building is located.

6. Buildings on through lots and extending from street to street may waive the requirements for a rear yard by furnishing an equivalent open space on the same lot in lieu of the required rear yard provided that the setback requirements on both streets be complied with.

7. Every part of a required yard shall be open and unoccupied by any structure from the ground upward, except as follows:

a. Detached accessory buildings shall be located as provided in paragraph (4) (a) 8 of this section.

b. Sills, cornices, canopies, eaves, belt courses and other architectural features may project into any yard not more than 30 inches; provided that no such feature shall project over a street line.

c. Bay windows, balconies and chimneys may project into any yard not more than 3 feet, but shall not project into any side yard which does not abut on a street more than 20 percent of the width of such yard; provided that the total length of such projections shall not be more than one-third of the length of the building wall on which they are located.

d. Fire escapes may project into any yard not more than 5 feet, but shall not project into any side yard which does not abut on a street more than 20 percent of the width of such yard; provided that no such fire escape shall be of less width than the minimum requirement of the state building code.

e. Uncovered steps and landings may project into any yard not more than 6 feet, but shall not project into any side yard which does not abut on a street more than 20 percent of the width of such yard, or 3 feet, whichever is the greater width; provided that no such steps or landings shall extend above the main or entrance floor of the building, except for a railing not more than 3 feet in height.

f. Platforms, walks and drives extending not more than 1 foot above the ground level at their margins, and retaining walls when the top of such wall is not more than 1 foot above the level of the abutting ground on one side, may be located in any yard.

g. Fences: A fence is a permitted accessory use in any district. Before it is constructed, installed, or any part of same put in place, an application with plans and specification (height, location, and type of fence proposed) attached shall have been filed with the Building Inspector and he shall have approved and granted a permit. Fences shall comply with requirements set forth in the Municipal Code.

(1) Definition. A fence shall be defined for the purpose of this ordinance as any type of materials or structures that delineate the boundaries between two parcels of land, or that delineate and describe an area to be contained, even though persons might pass through the same, meaning to broadly establish as an example of a fence such things as a moat, a retaining wall, a line of posts--even without connection to each other but set in a line to delineate a certain area for the landowner or lessee's purposes. Other items are such as a split rail, guard posts, any fence described in this ordinance, or any type of man-made marking of an area regardless of whether it causes a restraint of persons, animals, or other items passing from one owner's or lessee's property to the other.

(2) Types of Fences.

(a) Fence, Open. A structure of rails, planks, stakes, strung wire, or similar material erected as an enclosure, barrier, or boundary. Open fences are those with more than fifty (50 %) percent of their surface area open for free passage of light and air. Examples of such fences include chain link, picket, and rail fences.

(b) Fence, Ornamental. A fence whose only purpose is to decorate, accent, or frame a feature of the landscape. Ornamental fences are often used to identify a lot corner or lot line, frame a driveway, walkway, or planting bed. Ornamental fences are those with more than fifty (50 %) percent of their surface area open for passage of light and air. Ornamental fences are often of the picket, rail, or wrought iron type.

(c) Fence, Screening. A structure of bricks, planks, woven wire with screening inserts, or similar material erected as an enclosure, barrier or boundary. A screening fence is erected for the purpose of preventing a view of equipment, materials, or products: may shield undesirable views: or may serve as a barrier to prohibit entry to a property at a given location. A screening fence may or may not form a complete enclosure.

(d) Fence, Security. A structure of rails, planks, stakes, strung wire or similar material erected as an enclosure, barrier, or boundary. a security fence is

erected for the purpose of preventing entry to a property by unauthorized persons and protecting equipment, materials, or products contained within the enclosure. A security fence may also be erected to screen equipment, materials, or products from unauthorized view.

(e) Fence, Solid. A structure of rails, planks, stakes, strung wire, or similar material erected as an enclosure, barrier, or boundary. Solid fences are those with fifty (50 %) percent or less of their surface area open for free passage of light and air and designed to conceal the activities conducted behind them. Examples of such fences are stockade, board-on-board, board and batten, basket weave, louvered fences, and chain link with screening inserts.

(f) Fence, Good Neighbor. A fence constructed of solid or spaced boards, where the face boards are installed at the center of the posts so that the fence looks the same from both sides.

(3) Prohibited Types of Fences.

(a) Barbed wire fences and electric fences are prohibited in the Village of Hilbert, except in zoned Industrial and Agricultural Districts.

(b) Snow fencing or wire-bound lath or similar construction shall not be used as a permanent fence of any kind.

(c) No fence shall have sharp or pointed pickets dangerous to life or limb. Hedges shall be trimmed or confined to the property on which they are planted. No fence consisting in whole or in part of any material dangerous to life and limb shall be erected along or within four (4) feet of any public streets, sidewalks, or alley in the Village of Hilbert.

(4) Fence Installation.

(a) Fences shall be set back a minimum of eighteen (18) inches from all lot lines to allow for maintenance by their owners.

(b) Structural and support components of a Fence shall face away from adjacent properties.

(c) Fences shall be installed with the finished side facing the adjacent property or public right-of-way, and the fence posts must be located on the inside of the fence facing the property on which the fence is located, except when the style of fence commonly described as a "Good Neighbor Fence" is installed.

(d) Fences shall be installed plumb and the top finish of the fence shall be uniform. Fences shall follow the contour of the ground to the extent practical. Adjustments for grade shall occur at the bottom of the fence.

(e) The height of the fence shall be controlled by the applicable provisions of the Village Zoning Ordinance for the District in which the fence will be located. Fence height shall be measured from the surface of the ground immediately below the fence.

(f) The project site shall be marked by DIGGERS HOTLINE before digging holes for fence installation.

(g) No fence in the Vision Clearance Area shall exceed two and one-half (2 1/2) feet in height above the mean street grade.

(However, a fence so designed, constructed and maintained as to be ninety percent (90%) open for through vision may be constructed within such Vision Clearance Area, if kept to a maximum height of four feet.)

(h) The height of the walls and fences shall be measured vertically from the finished grade on the exterior side of the fence. Raising the finished grade by placing fill solely for the purpose of adding additional height to a fence is prohibited. If a fence is placed on a berm, the berm shall be included in the height of the fence, and the height shall be measured vertically from the base of the berm.

(i) Fence height regulations established shall not prevent an increase of two (2) inches or less, to allow for clearance between fencing material and the ground below to prevent decay or corrosion.

(5) Fences in Side and Rear Yards, Outside Setback Areas.

(a) No fence or hedge shall exceed six (6) feet in height in any side or rear yard.

(b) Fences or hedges shall not exceed three and one-half (3 1/2) feet in height when located in a front yard. (Street yard)

(6) Corner Lots and Setback Areas Adjacent to Street and Alley Right-of Way

(a) No fence, shrub, tree, or hedge shall be placed or allowed to grow in such a manner as to materially impede vision between a height of two and one-half feet (2 1/2) feet and ten (10) feet above the sidewalk grades of the intersecting streets and alleys and within twenty five (25) feet of the intersecting right-of-way lines. In other words, no fence exceeding 2 ½ feet in height shall be allowed from the front of the building/home to the front lot line, or from the side of the building/home to the side lot line. All other plants height shall not exceed two and one-half (2 1/2) feet in this area.

(7) Existing Fences.

(a) Any fence which exists at the time of the passage of this Code, but does not conform with the provisions thereof, shall not be altered or enlarged without making the entire fence conform to the provisions of this section.

(8) Maintenance of Fences.

(a) Fences shall be maintained in a manner as to prevent rust, corrosion and deterioration, so as not to become a public or private nuisance, and so as not to be dilapidated or a danger to adjoining property owners or the public, Fences shall not create an appearance of patchwork, which is indicative of a state of disrepair. Every fence installed shall be maintained by the owner in such a way that it will remain plumb and in good repair.

(e) Motor Vehicles and Parking.

1. No commercial motor vehicle exceeding 5 tons rated capacity shall be stored in any storage garage.

2. In any business or industrial district, wherever a lot abuts upon a public or private alley, sufficient space for the loading or unloading of vehicles shall be provided on the lot in connection with any business or industrial use so that the alley shall at all times be free and unobstructed to the passage of traffic.

3. a. All Theaters, arenas, auditoriums, churches or other places of public gathering hereafter erected shall provide an accessible parking space off the public street of sufficient size to accommodate at least 1 car for every 10 seats provided.

b. Every dwelling hereafter erected or structurally altered shall provide motor vehicle parking space off the public street and accessible thereto in the ratio of not less than 1 such parking space for each family which the building is designed to accommodate.

c. Every building hereafter erected or structurally altered for any industrial use shall provide not less than 1 parking space for each 4 persons employed at any one time on the premises, plus at least 1 additional parking space for each vehicle operated in connection with the use of such building.

(f) Since it is essential that the Village provide safe drinking water to its residents, any use of Village-owned property for the purpose of transmitting, furnishing or storing water shall be permitted as authorized and regulated by State law and shall be entirely exempt from the application of this ordinance. The above provision shall take precedence over any conflicting provision that may be contained in this Code or Ordinances.

(g) Wireless Tele-Communications Facilities.

1. Purpose. In order to accommodate the communication needs of residents and business while protecting the public health, safety, and general welfare of the community, these regulations are necessary in order to:

(1) Facilitate the provision of wireless telecommunication services to the residents and businesses of the Village;

(2) Minimize adverse visual effects of towers through careful design and sighting standards;

(3) Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements;

(4) Maximize the use of existing towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community and encourage co-location; and,

(5) Encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the Village.

(2) Definitions. As used in this ordinance, the following terms shall have the meanings set forth herein:

(a) Alternative Tower Structure: Clock towers, bell steeples, light poles and similar mounting structures that camouflage or conceal the presence of antennas.

(b) Antenna: Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

(c) Backhaul Network: The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

(d) Co-location: The provision of multiple antennas of more than one commercial wireless communication service provider or government entity on a single tower or structure.

(e) FAA: Federal Aviation Administration

(f) FCC: Federal Communications Commission

(g) Height: When referring to a tower or other structure, the distance measured from finished grade to the highest point on the tower or other structure, including the base pad.

(h) Pre-existing Towers/Antennas: Any tower for which a building permit or special use permit has been properly issued prior to the effective date of this ordinance.

(i) Tower: Any structure that is designed and constructed for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and telephone towers, alternative tower structures, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

(3) Applicability.

a. New Towers and Antennas: All new towers or antennas in the Village of Hilbert shall be subject to these regulations, except as provided in Sections 3(b) and 3(c).

b. Amateur Radio Station Operators/Receive Only Antennas: This ordinance shall not govern any tower, or the installation of any antenna, that is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas, or any television antenna used for television set reception.

c. Pre-existing Towers or Antennas: Pre-existing towers and preexisting antennas shall not be required to meet the requirements of this ordinance, other than the requirements of Section 5(b).

(4) Permit Required. No tower or antenna shall be installed unless a permit is first obtained by the owner

or his agent from the Building Inspector. The following shall be required as part of the application submittal:

- a. A scaled site plan clearly indicating the location, type and height of the proposed tower and appurtenant equipment, any proposed and existing structures, adjacent land uses and structures, adjacent roadways, on-site parking and driveways, tower and equipment setbacks from property lines, and other information deemed by the Building Inspector to be necessary to assess compliance with this ordinance;
- b. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties and unplatted residentially zoned properties;
- c. The separation distance from other towers, antennas or sites approved for towers or antennas, that are either within the jurisdiction of the Village of Hilbert, or within one mile of the border thereof, including specific information about the location, height, and design of each tower;
- d. Landscape plan showing specific plant materials;
- e. Method of fencing, including location, materials, and finished color and, if applicable, vegetative screening;
- f. Description of compliance with Section 5.

(5) General Requirements. In addition to compliance with all applicable regulations of this ordinance, the following standards shall apply for the installation of any tower or antenna;

- a. Building Codes: Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state and local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If upon inspection, the building inspector concludes that a tower fails to comply with such codes and

standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

b. State or Federal Requirements. All towers and antennas shall meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the State or Federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owner of a tower and antenna governed by this ordinance shall bring such tower and antenna into compliance with such revised standards and regulations within 6 months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling State or federal agency. Failure to bring towers or antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

c. Co-location. A proposed tower shall be structurally and electrically designed to accommodate the applicant's antenna and comparable antennas for additional users. Towers shall be designed to allow for future rearrangement of antennas and to accept antennas mounted in varying heights.

d. Antenna Height. Antenna height shall not be restricted, provided such device is installed and maintained in accord with applicable state or local building codes, and in compliance with current standards of the FAA, FCC and any other agency of the state or federal government with the authority to regulate antennas.

e. Tower Height. The following criteria shall apply in determining the maximum height of a tower.

- i. For a single user, up to 90 feet.
- ii. For two or more users, up to 120 feet.

f. Separation Between Towers. Separation distances between towers shall be applicable for a proposed tower and any preexisting towers. The separation distances shall be measured by a straight line between the base of an existing tower and the base of a proposed tower. Separation distances are as specified herein:

New Tower Type	Existing Tower Type			
	Lattice	Guyed	Monopole 75 Feet In Height Or Greater	Monopole Less Than 75 Feet In Height
Lattice	5000 Feet	5000 Feet	1500 Feet	750 Feet
Guyed	5000 Feet	5000 Feet	1500 Feet	750 Feet
Monopole 75 Feet In Height Or Greater	1500 Feet	1500 Feet	1500 Feet	750 Feet
Monopole Less Than 75 Feet In Height	750 Feet	750 Feet	750 Feet	750 Feet

g. Setbacks. A tower shall be located not closer than a distance equal to 100% of the height of the tower from any adjoining lot line. Guy wires and appurtenant equipment and buildings shall comply with requirements of the underlying zoning district in which the tower is located.

h. Availability of Suitable Existing Towers, Other Structures or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Village Board that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. Evidence submitted to the Village Board to determine that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

i. No existing towers or structures are located within the geographic areas which meet the applicant's engineering requirements.

ii. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.

iii. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.

iv. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

v. The fees, costs, or contractual provisions required by the owner to share an existing tower or structure for sharing are unreasonable.

vi. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

vii. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

i. Aesthetics. Towers shall maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness. Where an antenna is installed on a structure other than a tower, the antenna and appurtenant equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

j. Separation Between Land Uses. Tower separation shall be measured from the base of the tower to the lot line of

the off-site use and/or designated area as specified herein.

Land Use/Designated	Separation Distance
Single family or two-family homes, including modular homes or mobile homes used for living purposes; vacant land zoned for residential use which has been platted or has unexpired preliminary subdivision plat approval.	200 feet or 300% height of tower, whichever is greater.
Land designated by the Comprehensive Plan for future residential use.	100 feet or 200% height of tower, whichever is greater.
Land zoned for manufacturing use, or non-residential use.	No separation requirement. Tower site subject to zoning district setback requirements.
Multifamily dwellings.	100 feet or 100% of height of tower, whichever is greater.

k. Signs. No advertising material or signage other than warning or equipment information shall be allowed on any antenna or tower. This prohibition shall include the attachment to an antenna or tower of any flag, decorative sign, streamers, pennants, ribbons, spinners or waving, fluttering or revolving devices, but not including weather devices.

l. Lighting. Towers shall not be artificially illuminated unless required by the FAA or any other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

m. Fencing. A tower shall be enclosed by security fencing not less than 6 feet in height and secured so that it is not accessible by the general public. Fence design, materials and colors shall reflect the character of the surrounding area.

n. Landscaping. A buffer of plant materials to effectively screen the tower compound from public view and from adjacent properties shall be provided. The minimum buffer shall consist of a landscaped strip at least 5 feet

in width outside the perimeter of the tower compound. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived. Existing mature tree growth and natural landforms shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

o. Appurtenant Equipment and Buildings. Antennas mounted on structures or rooftops: The equipment cabinet or structure used in association with an antenna may be located on a roof provided that such equipment or structure is placed as unobtrusively as possible. Equipment storage buildings or cabinets shall comply with all applicable building and zoning code requirements.

Antennas mounted on utility poles, light poles or towers: The equipment cabinet or structure used in association with an antenna shall be sited in accordance with the development standards of the underlying zoning district. Equipment cabinets or structures shall be screened from view by an evergreen hedge or other suitable vegetation, except where the use of non-vegetative screening would better reflect and complement the architectural character of the surrounding neighborhood.

(6) Permitted Uses.

(a) Allowable Zoning Districts: The installation of a tower or antenna including the placement of buildings or other supporting equipment used in connection with said tower or antenna, may be allowed as a conditional use in the Industrial zoning district.

(b) Municipal Sites: Antennas installed on a structure other than a new communication tower, or antennas installed on an existing communication tower shall be permitted when located on property owned, leased or otherwise controlled by the Village of Hilbert, irrespective of the zoning district, provided that a lease or other agreement to authorize such antenna or tower has been approved by the Village.

(c) Antennas or Towers on Existing Structures: An antenna or tower may be situated on the roof of a commercial, industrial, professional, or institutional structure may be allowed, provided that such device is installed and maintained in accord with applicable state or local building codes, and complies with current standards of the FAA, FCC and any other agency of the state or federal government with the authority to regulate antennas.

(d) Antennas on Existing Towers: The attachment of a new antenna on an existing tower may be allowed, to minimize adverse visual impacts associated with the proliferation and clustering of towers, provided that: (1) A tower which is modified or reconstructed to accommodate the co-location of an additional antenna shall be of the same type as the existing tower, unless reconstructed as a monopole; (2) An existing tower may be modified or rebuilt to accommodate the co-location of additional antenna and may be moved on-site within 50 feet of its existing location, but the relocation may only occur one time per communication tower; (3) After a tower is rebuilt to accommodate co-location, only one tower may remain on the site; (4) The on-site relocation of a tower which comes within the separation distances to residential units or residentially zoned lands shall only be permitted when approved by the Village Board.

(e) Alternative Tower Structure: The use of an alternative tower structure may be permitted, where such use would be consistent with the goals set forth in Section 1 of this ordinance, as determined by the Village Board.

(f) Cable Microcell Network: The installation of a cable microcell network may be permitted through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

(7) Removal of Abandoned Antennas and Towers: An antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the Village of Hilbert notifying

the owner of such abandonment. Failure to remove an abandoned antenna or tower within said 90 days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(8) Nonconforming Uses.

(a) Not an Expansion of Nonconforming Use. Towers that are constructed and antennas that are installed, in accordance with the provisions of the ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

(b) Pre-existing Towers. Pre-existing towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of the ordinance.

(5) SINGLE FAMILY RESIDENCE DISTRICT R-1. In the single family residence district, no building or premises shall be used and no building shall hereafter be erected, moved or structurally altered unless otherwise provided in this ordinance, except for one or more of the following uses:

(a) Single family dwellings.

(b) Churches, convents, public and parochial schools. Municipal buildings, except sewage disposal plants, garbage incinerators, public warehouses, public garages, public shops and storage yards. Public recreational and community center buildings and grounds, such as parks, playgrounds, golf courses and swimming pools.

(c) Telephone buildings, exchanges and lines, transformers and neighborhood or unit electrical substations, provided there is no service garage or storage yard; telephone, telegraph and power transmission poles and lines and necessary mechanical appurtenances, including portable public utility equipment housings and structures. This regulation, however, shall not include microwave radio relay structures or substations larger than the neighborhood or unit size unless and until the location thereof shall first have been approved

by the Village Board, after investigation and public hearing. The setback requirements of this ordinance shall not be applied to the necessary and customary construction, reconstruction, repair or maintenance of public utility poles, tower, lines and appurtenances.

(d) Truck gardening and nurseries only for the propagation of plants.

(e) Roadside stands; provided that no such roadside stand shall be more than 300 square feet in ground area and there shall be not more than one roadside stand on any one premises.

(f) Residential Garages and Accessory Buildings. See 4 (a) 8.

(g) Not over 2 boarders or lodgers not members of the family.

(h) Railroad right-of-way and passenger depots, not including switching, storage, freight yards or siding.

(i) Uses customarily incident to any of the above uses when located on the same lot and not involving the conduct of a business.

(j) Home occupations, provided that such occupation is incidental to the use of the premises for residential purposes, that no external alteration is made which effects a substantial change in the residential character or appearance of the home, that no article is sold or offered for sale on the premises except such as is produced by such occupation, that no stock in trade is kept or sold, that no mechanical equipment is used other than is permissible for purely domestic purposes and that no person other than a member of the immediate family living on the premises is employed.

(k) Professional offices, provided that such office is incidental to the use of the premises for residential purposes, that no external alteration is made which effects a substantial change in the residential character or appearance of the home, that not more than 50 percent of the floor area of only 1 story of the home shall be occupied by such office and that not more than 2 persons not members of the resident family may be employed in such office.

(1) Signs as follows:

1. One sign, on the premises, for each professional person or home occupation, not over 1 square foot in area.

2. One announcement sign or bulletin board for each public, religious or educational institution, not over 12 square feet in area.

3. A sign, not over 4 square feet in area, pertaining to the lease, hire or sale of a building or premises, except that there may be 2 such signs for a group of more than 3 contiguous vacant lots.

4. Two signs, not over 4 square feet in area, for each roadside stand.

5. Signs for the protection of persons or property.

6. Signs placed by the public authorities for the guidance or warning of traffic.

Provided that no advertising sign of any other character shall be permitted in the Single Family Residence District; and provided further that all permitted signs, except signs placed by the public authorities or required to be located otherwise by law shall be located on the premises to which they relate, and at least 5 feet from the inside sidewalk line, and that no such sign shall be illuminated unless such sign and illuminating device are located entirely within one foot of a street wall of the main building, subject to 9.03 of this code.

(m) Additional uses by special permit. See (4) (a) 9 of this section.

(5A) HEIGHT AND AREA. In the Single Family Residence District, the height of the buildings, the minimum dimensions of yards and minimum lot area per area per family shall be as follows:

(a) Height. Buildings hereafter erected or structurally altered shall exceed neither 35 feet nor 2-1/2 stories in height. See (4) (c) 1-7 of this section.

(b) Side Yard. There shall be side yard on each side of a building hereafter erected, moved or structurally altered. For buildings not over 1-1/2 stories high, the sum of the widths of the required side yards shall be less than 12 feet and no single side yard shall be less than 6 feet in width. For buildings from 2 to 2-1/2 stories in height, the sum of the widths of the required side yards shall not be less than 15 feet and no single side yard shall be less than 8 feet in

width. Provided, however, that on a lot having a width of less than 60 feet and of record at the time of the passage of this ordinance, the sum of the widths of the required side yards shall be not less than the equivalent of 2.4 inches per foot of lot width for a building not over 1-1/2 stories in height and 3 inches per foot of lot width for a building from 2 to 2-1/2 stories in height, provided further that the width of any single side yard shall be not less than 40 percent of the total required side yard width, but in no case less than 4 feet. A side yard shall be provided on the street side of a corner lot as required under "Setback" below. See (4) (a) 7; (d) 1, 2, 7 & 8 of this section.

(c) Setback. Unless otherwise provided, there shall be a setback on every lot in this district of not less than 25 feet, provided that on any corner lot less than 75 feet wide and of record at the time of the passage of this ordinance, the setback on the side street may be reduced by ½ foot for each foot by which the width of the said corner lot is less than 75 feet, but in no case to less than 10 feet; provided, however, that no accessory building shall project beyond the setback line of the lot abutting the yard in which such accessory building is located. See (3) "Setback" and (4) (a) 7; (d) 3.

(d) Rear Yard. There shall be a rear yard having a depth of not less than 20 feet. See (4) (a) 7; (d) 3, 2, 6, 7 & 8 of this section.

(e) Lot Area Per Family. Every building hereafter erected, moved or structurally altered shall provide a lot area of not less than 7,200 square feet per family and no such lot shall be less than 60 feet in width; provided that no corner lot laid out or divided after the effective date of this ordinance shall be less than 75 feet in width. See (4) (a)7; (b)1 & 2 of this section.

(f) Minimum Ground Floor Area.

1. One story dwelling - not less than 900 square feet.

2. Split level dwelling - not less than 800 square feet.

3. Two story and two and one-half story dwellings- not less than 600 square feet.

Auto parking as above. See 4b - Motor Vehicles and Parking.

(g) Vision Clearance. On every corner lot in the Single Family Residence District, there shall be a vision clearance triangle, bounded by the street lines and a line connecting the points at which such street lines are intersected by the projections or extensions of the rear lines of the required front and side street side yards. Within such triangle no structure or object of natural growth shall be constructed, maintained or permitted to grow between a height of 2-1/2 feet and 10 feet above the elevation of the street pavement at the intersection of the centerlines of the streets bounding such intersection, if there be a curb. This regulation shall not apply to the trunks of trees, fence posts not over 6 inches square or in diameter, retaining walls supporting ground at or below its natural level, or wire fences so designed and constructed as not to constitute a substantial obstruction to the view of motorists and pedestrians across the vision clearance triangle from one street to another.

(6) MULTIPLE FAMILY RESIDENCE DISTRICT - R-2

(a) Use. In the Multiple Family Residence District, no building or premises shall be used and no building shall hereafter be erected, moved, or structurally altered, unless otherwise provided in this ordinance, except for one or more of the following uses:

1. Any use permitted in the Single Family Residence District; multiple family dwellings.
2. Boarding houses and lodging houses.
3. Public hospitals or clinics, except veterinarian hospitals or clinics, public corrective institutions and asylums, public or private sanitariums, and funeral homes, when every building of any such institution shall be located not less than 50 feet from any lot in a Residence District not used for the same purpose.
4. Nursing homes, convalescent homes and homes for the aged, when conducted in a residential building and when no external alterations are made

that would effect a substantial change in the residential character or appearance of the building.

5. Private clubs and lodges, except those whose chief activity is a service customarily carried on as a business.

6. Such accessory uses as are customary in connection with the foregoing uses and are incidental thereto.

7. Any temporary sign permitted under 9.03(12).

(6A) HEIGHT AND AREA. In the Multiple Family Residence District, the height of buildings and the minimum dimensions of yards and the minimum lot area per family shall be as follows:

(a) Height. The height regulations for the Multiple Family Residence District shall be the same as those for the Single Family Residence District.

(b) Side Yard. The side yard regulations for the Multiple Family Residence District shall be the same as those for the Single Family Residence District.

(c) Setback. The setback regulations for the Multiple Family Residence District shall be the same as those for the Single Family Residence District.

(d) Rear Yard. The rear yard regulations for the Multiple Family Residence District shall be the same as those for the Single Family Residence District.

(e) Lot Area Per Family. Every building hereafter erected, moved or structurally altered for occupancy by 1 family shall provide a lot area of not less than 7,200 sq. feet and no such lot shall be less than 60 feet in width; every building hereafter erected, moved or structurally altered for occupancy by more than one family shall provide a lot area per family not less than the areas shown in the following tables:

<u>Number of Families</u>	<u>Lot Area Per Family</u>
2	4,350 sq. ft.
3	4,000 sq. ft.

4
More than 4

3,000 sq. ft.
Area required for 4
families, plus 3,000 sq.
ft. for each family over 4

Provided that no corner lot laid out or divided after the effective date of this ordinance shall be less than 75 feet in width. See Section (4) (a)7; (b)1&2.

(f) Residential Garages and Accessory Buildings. See 4(a)8.

(6B) MINIMUM FLOOR AREA. Every building hereafter erected, moved or structurally altered for occupancy by 1 family shall provide a floor area of not less than 750 sq. feet per family. Every building hereafter erected, moved or structurally altered for occupancy by more than 1 family shall provide a floor area not less than 600 feet per family.

(6C) AUTO PARKING. See (4) (e) b of this section.

(6D) VISION CLEARANCE. On every corner in the Multiple Family Residence District, there shall be a vision clearance triangle, bounded by the street lines and a line connecting the points at which such street lines are intersected by the projections or extensions of the rear lines of the required front and side street side yards. Within such triangle no structure or object of natural growth shall be constructed, maintained or permitted to grow between a height of 2-1/2 feet and 10 feet above the elevation of the street pavement at the intersection of the centerlines of the streets bounding the property, or the elevation of the top of the curb nearest such intersection, if there be a curb.

This regulation shall not apply to the trunks of trees, fence posts not over 6 inches square or in diameter, retaining walls supporting ground at or below its natural level, or wire fences so designed and constructed as not to constitute a substantial obstruction to the view of motorists and pedestrians across the vision clearance triangle from one street to another.

(7) BUSINESS DISTRICT.

(a) Use. In the Business District no building or premises shall be used and no building shall hereafter be

erected or structurally altered, unless otherwise provided in this ordinance, except for one or more of the following uses:

(7A) Any use permitted in the Multiple Family Residence District when within a building existing on the effective date of this ordinance.

(7B) Any of the following specified uses:

(a) Animal hospital, pet shop.

(b) Art shop, antique shop, gift shop.

(c) Automobile sales and service establishments, public garage, parking lot.

(d) Bakery (retail).

(e) Bank, financial institution.

(f) Barber shop, beauty parlor.

(g) Book and stationery store, newsstand.

(h) Bowling alley, pool and billiard room.

(i) Bus depot.

(j) Business and professional offices, public utility offices.

(k) Candy store, confectionery store.

(l) Clinic.

(m) Clothing store, department store, dress shop, hosiery shop, millinery shop, shoe store, shoe repair shop.

(n) Drug store, ice cream shop, pharmacy, soda fountain, soft drink stand.

(o) Florist shop.

(p) Food and dairy products establishments (retail), delicatessen, fruit and vegetable market, grocery store, meat and fish market.

(q) Furniture store, office equip. store, upholsterer's shop.

(r) Hardware store, home appliance store, paint store, plumbing, heating and electrical supplies, sporting goods store.

(s) Hotel, motel.

(t) Jewelry store, watch repair store.

(u) Laundry or cleaning and drying establishment.

(v) Micro-wave radio relay structures.

(w) Music store, radio and television store.

(x) Optical store.

(y) Photographer and photographer's supplies.

(z) Police and fire station, post office, municipal garage, except public shops and storage yards.

(aa) Printing shop.

(bb) Restaurant, barbecue stand, café, cafeteria, caterer, lunchroom, tavern.

(cc) Tailor shop, clothes pressing shop.

(dd) Telephone and telegraph office.

(ee) Temporary structures, including signs, billboards and other outdoor advertising structures.

(ff) Theaters and places of amusement, except drive-in theaters.

(gg) Tobacco store.

(hh) Undertaking establishment.

(ii) Variety store, notion shop.

(jj) Any other uses similar in character and the manufacture or treatment of products clearly incidental to the conduct of a retail business on the premises.

(kk) Such accessory uses as are customary in connection with the foregoing uses and are incidental thereto.

(7C) HEIGHT AND AREA.

(a) In the Business District the height of buildings, the minimum dimensions of yards and the minimum lot area per family shall be as follows:

(b) Height. Buildings hereafter erected or structurally altered shall exceed neither 45 feet nor 3 stories in height. See (4) (c) 2,3,5,6 & 7 of this section.

(c) Side Yard. For buildings or parts of buildings hereafter erected or structurally altered for residential use, the side yard regulations for the Multiple Family Residence District shall apply, except on the street side of a corner lot. Otherwise no side yard shall be required, but if provided, shall not be less than 6 feet in width. See (4) (d) 2 of this section.

(d) Setback. Where parts of the frontage of a street are designated on the District Map as Residence District and Business District, either abutting each other or across the street from each other, the setback regulations of the Residence District shall apply to the Business District; otherwise no setback shall be required in the Business District. Where a proposed right of way exists on the Official Map, any setback required or building line shall be measured from the proposed right of way line.

(e) Rear Yard. There shall be a rear yard having a minimum depth of 25 feet for a building 2 stories or less in height. For each additional story or fractional story in height, the depth of such rear year shall be increased 5 feet. See (4) (d) 1, 2, 6, 7 & 8 of this section.

(f) Lot Area Per Family. Every building or part of a building hereafter erected or structurally altered exclusively for residential purposes shall provide a lot width and area as required by the regulations of the Multiple Family Residence District.

(g) Vision Clearance. No building located at the intersection of 2 or more streets, where a setback of less than 10 feet exists or is provided, shall hereafter be erected or structurally altered for any purpose unless a vision clearance triangle is provided at the corner of the building nearest the intersection. Such vision clearance triangle shall be free of visual obstruction of any kind, except for 1 vertical supporting member not more than 12 inches square in horizontal cross section. Such vision clearance triangle shall extend not less than 10 feet horizontally along each street line from their intersection and shall extend vertically from the curb line to the ceiling line of the ground floor, but no case shall such vision clearance triangle be less than 10 ft. high.

(7D) ROOF SIGNS. Roof signs are not permitted in the Business District except as a conditional use permit subject to Section 9.03(4)(d) of this Code.

(8) INDUSTRIAL DISTRICT I.

(a) Use. In this Industrial District I, unless otherwise provided in this ordinance, buildings or land may be used for any purpose except the following:

1. Residential, educational or institutional uses, except a dwelling for the owner or a watchman or caretaker employed on the premises and members of his family.

2. Uses in conflict with any laws of the State of Wisconsin or any ordinances of the Village of Hilbert governing nuisances.

3. Any of the following uses unless the location of such use has been approved in writing by the Village Board after investigation and public hearing.

a. Acid, ammonia, bleach, chlorine or soap manufacture.

b. Ammunition manufacture; explosives or fireworks manufacture or storage.

c. Asphalt, coal and coal tar or coke manufacture.

d. Automobile wrecking yard; junkyard.

e. Bones, distillation of.

- f. Cement, lime, gypsum or plaster of Paris manufacture.
- g. Fat rendering.
- h. Fertilizer manufacture.
- i. Forge plant.
- j. Garbage, rubbish, offal or dead animal reduction or dumping.
- k. Gelatin, glue or size manufacture.
- l. Inflammable gases or liquids, refining or manufacture of; over ground tank farms.
- m. Slaughterhouse, stockyard.
- n. Smelting.

(8A) HEIGHT AND AREA. In the Industrial District I, the height of buildings, the minimum dimensions of yards and the minimum lot area per family shall be as follows:

(a) Height. Buildings hereafter erected or structurally altered shall exceed neither 50 feet nor 4 stories in height, provided that no building or part of a building used for residential purposes, shall exceed either 45 feet or 3 stories in height. See (4) (c) 3,5,6,7 & 8 of this section.

(b) Side Yard. For buildings or parts of buildings used for residential purposes, the side yard regulations of the Multiple Family Residence District shall apply except on the street side of a corner lot; otherwise a side yard shall not be required, but if provided, shall be not less than 6 feet in width, provided that no building or structure, stockpile or equipment storage, except parking lots for private passenger vehicles, shall be located within 25 feet of any boundary of any Residence District. See (4) (d) 2, of this section.

(c) Setback. Where parts of the frontage of a street are designed on the District Map as Residence District and Industrial District, either abutting each other or across the street from each other, the setback regulations of the Residence District shall apply to the Industrial District; otherwise no setback shall be required in the Industrial District. Where a proposed right of way exists on

the Official Map, any setback required or building line shall be measured from the proposed right of way line.

(d) Rear Yard. There shall be a rear yard having a minimum depth of 25 feet for a building 2 stories or less in height. For each additional story or fractional story in height, the depth of such rear yard shall be increased 5 feet. Loading platforms may be established in such rear yard where it abuts on a railroad. See (4) (d) 1, 2, 4, 5, & 6 of this section.

(e) Lot Area Per Family. Every building or part of a building hereafter erected or structurally altered for residential purposes shall provide a lot area of not less than 12,000 square feet per family, and no such lot shall be less than 75 feet in width. See (4) (b) 1 & 2 of this section.

(f) Vision Clearance. No building located at the intersection of 2 or more streets, where a setback of less than 10 feet exists or is provided, shall hereafter be erected or structurally altered for any purpose unless a vision clearance triangle is provided at the corner nearest such intersection. Such vision clearance triangle shall be free of visual obstruction of any kind, except for 1 vertical supporting member not more than 12 inches square in horizontal cross section. Such vision clearance triangle shall extend not less than 10 feet horizontally along each street line from their intersection and shall extend vertically from the curb line to ceiling line of the ground floor, but in no case shall such vision clearance triangle be less than 10 feet high.

(g) Vehicle Parking and Loading. See (4) (e) 2 and 3c of this section.

(8B) ROOF SIGNS. Roof signs are not permitted in the Industrial District except as a conditional use subject to Section 9.03(4)(d) of this Code.

(9) MOBILE HOME DISTRICT.

(a) Use. In the Mobile Home District no buildings or premises shall be used or hereafter erected or structurally altered except for use in connection with a mobile home park.

(b) Definition. As used in this ordinance:

1. Licensee means any person licensed to operate and maintain a mobile home park under the provisions of this ordinance.

2. Mobile Home means a manufactured transportable, single-family dwelling unit suitable for year-round occupancy and containing water supply, waste disposal and electrical conveniences.

3. Dependent Mobile Home is a mobile home without inside toilets and bath are prohibited in a mobile home park as defined in this ordinance.

4. Mobile Home Park means a parcel of land which has been developed for the placement of mobile homes and is owned by an individual, a firm, trust, partnership, public or private association or corporation.

5. Mobile Home Lot or Site means a parcel of land for the placement of a single mobile home and the exclusive use of its occupants.

6. Permittee means any person to whom a special permit is issued to maintain or operate a mobile home park under the provisions of this ordinance.

7. Person means any individual, firm, trust, partnership, association or corporation.

8. Issuing Authority means the person, board or committee who has been authorized to issue respective permits.

9. Unit means mobile home dwelling unit.

(c) Permits.

1. It shall be unlawful for any person to construct, alter or extend any mobile home park within the limits of Hilbert unless he holds a valid permit issued by the issuing authority in the name of such person for the specific construction, alteration or extension proposed.

2. All applications for permits shall contain the following:

- a. Names and addresses of applicant.
- b. Location and legal description of the mobile home park.

c. A complete plan of the park in conformity with the requirements of section (6) of this ordinance.

d. Plans and specifications of all buildings, improvements and facilities constructed or to be constructed within the mobile home park.

e. Application for initial mobile home park license shall be filed with the Clerk and subject to approval by the permit issuing authority. The application shall be in writing, signed by the applicant.

(d) License Fees.

1. The annual license fee for each mobile home park shall be \$50.00 for each 50 spaces or fraction thereof.

2. The fee for transfer of a license shall be \$10.00.

(e) Application for Renewal or Transfer of License.

1. Upon application in writing by a licensee for renewal of a license and upon payment of the annual license fee, and upon review, the issuing authority shall issue a certificate renewing such license for another year.

2. Upon application in writing for transfer of a license and payment of the transfer fee, the issuing authority shall issue a transfer if the transferee is of good moral character.

(f) Location. Mobile home parks may be located only in a Mobile Home District. Where any boundary of a park directly abuts property which is improved with a permanent residential building located within 25 feet of such boundary or directly abuts unimproved property which may under existing laws and regulations be used for onsite residential construction, a fence, wall or hedge may be provided along such boundary at optional requirements of the permit issuing authority.

(g) Mobile Home Park Plan. The mobile home park shall conform to the following requirements:

1. The park shall be located on a well-drained property, properly graded to insure rapid drainage and free from stagnant pools of water.

2. Each site shall be clearly defined or delineated. Each site shall have an average area of not less than 6000 square feet, and the average width of all sites shall be not less than 50 feet and the unit shall not occupy in excess of 20% of the area of the site.

3. The units shall be so located on each site that there shall be at least a 30 feet clearance between units. No units shall be located closer than 10 feet to any building within the park or to any property line of the park, which does not abut upon a public street or highway. No unit shall be located closer than 25 feet from property line of public street or 50 feet from trunk hwy., thoroughfare or such other distance as may be established by ordinance or regulation as a front yard or setback requirement with respect to permanently erected buildings in the district in which the mobile home park is located.

4. All sites abut upon a street of not less than 24 feet in width, which shall have unobstructed access to a public street or highway.

5. All streets shall be improved or hard surfaced and lighted at night. All streets shall be so improved as to provide suitable drainage without the use of ditches and further that such streets shall be so designed as to be suitable for curb and gutter and storm sewer systems.

6. An electrical outlet supplying at least 100-115/220-250 volts. 50 amperes shall be provided for each mobile home site. All wiring to each site shall be sufficient so that a larger service may be installed if required.

7. Each mobile home site shall be provided with two off street parking spaces and no on street parking shall be permitted except by guests.

(h) Water Supply. An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all buildings and mobile home sites within the park, to meet the requirements of the park. Each site

shall be provided with a cold-water tap, located to be accessible from the side of the unit.

(i) Sewage and Refuse Disposal. Each mobile home site shall be provided with a sewer receptacle at least four inches in diameter, which shall be connected to receive the waste from the shower, bath, tub, flush toilet, lavatory and kitchen sink of the mobile home harbored on such site having any or all of such facilities. The sewer in each site shall be connected to discharge the mobile home waste into a public sewer system in compliance with applicable ordinances. Receptacle shall be located so as to be accessible from side of unit. Each unit shall be subject to a sewer service charge according to the license agreement with the Village Board.

Metal garbage cans with tight-fitting covers shall be required in quantities adequate to permit disposal of all garbage and rubbish. Garbage cans shall be located not farther than 100 feet from any mobile home site. The cans shall be kept in sanitary condition and disposed of as frequently as may be necessary to insure that the garbage containers shall not overflow.

(j) Landscaping. Each site shall be attractively landscaped, and all areas fronting the park and any buildings or recreation areas shall be attractively landscaped.

(k) Service Buildings.

1. Service buildings housing sanitation facilities shall be permanent structures complying with all applicable ordinances and statutes regulating buildings, electrical installations and plumbing and sanitation systems.

2. The service buildings shall be well lighted at all times of the day and night, shall be well ventilated with screened openings, shall be constructed of such moisture-proof material, which may be painted woodwork, as shall permit repeated cleaning and washing, and shall be maintained at a temperature of at least 68 degrees Fahrenheit during the period from October 1st to May 1st. The floors of the service buildings shall be of water impervious material. Washing and drying machines may be installed accordingly to needs of the park.

3. All service buildings and the grounds of the park shall be maintained in a clean, sightly condition and kept free of any condition that will menace the health of the occupant or the public or constitute a nuisance.

(l) Fire Protection. Service buildings shall be equipped with the fire extinguishers and the park with water hydrants of such type, size and number and so located within the park to comply with the Hilbert Water Department rules and all of standard size and fitness of this department and the regulations of the fire department. No open fires shall be permitted at any place which may endanger life or property. No fires shall be left unattended at any time. All municipal codes regulating open fires shall be enforced.

(m) Supervision. The licensee or permittee, or a duly authorized attendant or caretaker shall be in charge at all times to keep the mobile home park, its facilities and equipment in a clean, orderly and sanitary condition. The attendant or caretaker shall be answerable, with the licensee or permittee, for the violation of any provisions of this ordinance to which the licensee or permittee is subject.

(n) Management.

1. In every mobile home park, there shall be located, the office of the person in charge of said Mobile Home Park.

2. It is the duty of the mobile home park owner or operator together with any attendants or persons in charge of a mobile home park to:

a. Keep a register of all occupants of mobile homes, to be open at all times to inspection by federal, state and local officials.

b. Maintain the mobile home park in a clean, orderly and sanitary condition at all times.

c. Report presence of dogs or any other animals running loose in the park.

d. Report to the local health officer all cases of persons or animals affected or suspected of being affected with any communicable disease.

e. Post copies of their rules and regulations in one or more conspicuous places in the mobile home park where they can be easily seen by the mobile park personnel and visitors.

f. Obtain signed application form, stating year in which mobile home was new, together with size and make, last prior address and current employer, plus number of and ages of children in family.

(o) Revocation of License or Special Permit. The permit issuing authority may revoke any license to maintain and operate a park when the licensee has been found guilty by a court of competent jurisdiction of violating any provisions of this ordinance. After such revocation, the licensee may be reissued if the circumstances leading to revocation have been remedied and the park is being maintained and operated in full compliance with this ordinance.

(p) Posting of License and Permit. The license certificate or special permit shall be conspicuously posted in the office of, or on the premises of the mobile home park at all times.

(q) Separability of Provision. Should any section or provision of this ordinance be declared invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

(r) Penalty. The penalty for violation of any of the provisions of this ordinance shall be as provided in Ordinance 15.01 of this code.

(10) AGRICULTURE DISTRICT (A).

(a) The A District provides exclusively for agricultural uses. The intent is to help conserve good farming areas and prevent uncontrolled, uneconomical spread of residential development, which results in excessive costs to the community for premature provision of essential public improvements and services such as sewer and water lines. The following uses are permitted:

1. Churches, schools, parks, and municipal buildings.

2. Farming, provided that buildings in which farm animals are kept shall be at least 100 feet from the nearest resident district.

3. In-season roadside stands for the sale of farm products produced on the premises, and up to two unlighted signs not larger than 8 square feet each advertising such sale.

4. Water storage; and sewage disposal plants and power stations, when surrounded by an 8-foot or higher woven fence.

5. Kennels, nurseries, greenhouses, and other agricultural uses that may cause noxious odors or noise or create health or sanitation hazards are permitted but only with permission of the Village Board on the recommendation of the Plan Commission pursuant to the procedure prescribed for zoning amendments by Wisconsin Statutes Section 62.23.

6. Uses customarily incident to any of the above uses, including residential use incident to any of the above uses.

(11) PLANNED DEVELOPMENT DISTRICT (PD).

(a) The PD District is intended to provide for large-scale residential development. This district shall have no definite and measurable boundaries until such are approved by the Village Board on the recommendation of the Plan Commission, in accordance with procedures prescribed for zoning amendments by Wisconsin Statutes Section 62.23. Plans for the proposed development shall be submitted in duplicate, and shall show the location, size and proposed use of all structures and land included in the areas involved. The plans may provide for a combination of single and multi-family development provided the plans indicate that:

1. A single area of at least two acres is involved.

2. Each residential building and lot in the district will conform to the R-2 District requirements.

3. Paved streets and sidewalks adequate to serve the needs of the area involved will be provided.

4. Adequate access to public streets and proper internal circulation will be provided.

5. Adequate sewer and water facilities will be provided.

6. The development will constitute a reasonable extension of the living areas in the Village and will be compatible with surrounding land uses.

(12) BOARD OF APPEALS.

(a) 1. A board of appeals is hereby established. The board of appeals shall consist of 5 members appointed by the Village President, subject to confirmation by the Village Board for 3 years, except that of those first appointed, 1 shall serve for 1 year, 2 for 2 years, and 2 for 3 years. The members shall serve without compensation and shall be removable by the Village President for cause upon written charges and after public hearing. The Village President shall appoint an alternate member for a term of 3 years, who shall act with full power, only when a member of the board of appeals is absent or refused to vote because of interest. Vacancies shall be filled for the un-expired terms of members whose terms become vacant. The board of appeals may employ a secretary and other employees.

2. The board of appeals shall adopt rules for its government and procedure. Meetings of the board of appeals shall be held at the call of the chairman and at such other times as the board of appeals may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

3. The board of appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board of appeals and shall be a public record.

4. Appeals to the board of appeals may be taken by any person aggrieved or by any officer, department, board or

bureau of the Village of Hilbert affected by any decision of the building inspector. Such appeal shall be taken within a reasonable time, as provided by the rules of the board of appeals, by filing with the building inspector and with the board of appeals a notice of appeal specifying the grounds thereof. The building inspector shall forthwith transmit to the board of appeals all the papers constituting the record upon which the action appealed from was taken. The board of appeals shall fix a reasonable time for the hearing of appeals and give public notice thereof as well as due notice to the parties in interest, and shall decide the same within a reasonable time.

(12A) POWERS OF THE BOARD OF APPEALS. The board of appeals shall have the following powers:

(a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the building inspector.

(b) 1. To authorize, upon appeal in specific cases, such variance from the terms of this ordinance, as will not be contrary to the public interest, where, owing to special conditions peculiar to a specific property, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done. See (3) - variance of this section.

2. Except as specifically provided, no action of the board of appeals shall have the effect of permitting in any district uses prohibited in such district.

3. In every case where a variance from these regulations has been granted by the board of appeals, the minutes of the board shall affirmatively show that an "unnecessary hardship" or "practical difficulty" exists and the records of the board shall clearly show in what particular and specific respect an "unnecessary hardship" or "practical difficulty" would be created by the literal application of such regulations.

(c) To hear and decide special exceptions to the terms of this ordinance upon which the board of appeals is required to pass, as follows:

1. To grant a permit for a temporary building for commerce or industry in a Residence District, which is, incidental to the residential development, such permit to be issued for a period of not more than 1 year.

2. To grant a permit for the extension of a district boundary for a distance of not more than 35 feet only where the boundary of district divides a lot in a single ownership at the time of the adoption of this ordinance.

3. To permit the change of a nonconforming use to another nonconforming use of the same classification. See (4) (a)6b of this section.

4. To interpret the provisions of this ordinance in such a way as to carry out the intent and purpose of the plan as shown on the district map accompanying and made a part of this ordinance, where the street layout actually on the ground varies from the street layout on the afore-said map. See (3) "Exception" of this section.

(d) In exercising the foregoing powers the board of appeals may in appropriate cases establish suitable conditions and safeguards in harmony with the general purpose and intent of this ordinance.

(e) The board of appeals shall have the power to call on any other village department for assistance in the performance of its duties, and it shall be the duty of such other departments to render such assistance as may be reasonably required.

(f) The board of appeals may reverse or affirm wholly or in part or may modify any order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the building inspector.

The concurring vote of 4 members of the board of appeals shall be necessary to reverse any order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the building inspector. The concurring vote of 4 members of the board of appeals shall be necessary to reverse any order, requirement, decision or determination appealed from or to decide in favor of the applicant or any matter on which it is required to pass or to effect any variation in the requirements of this ordinance.

(g) Any person or persons, jointly or severally, aggrieved by any decision of the board of appeals, or any taxpayer or any officer, department, board or bureau of the Village of Hilbert, may within 30 days after the filing of the decision in the office of the board of appeals, but not thereafter, present to a court of

competent jurisdiction a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegibility, whereupon such decision of said board shall be subject to review as provided by law.

(13) CHANGES, AMENDMENTS AND CONDITIONAL USE PERMITS.

(a) The Village Board may from time to time on its own motion or on petition by any person or persons having an interest in the subject of the proposal, amend, supplement, or change the district boundaries or the regulations herein or subsequently established upon giving at least 10 days notice, by publication in the official paper at least 3 times in the preceding 30 days of the proposed amendment, supplement or change and of hearing thereon, and opportunity to any person interested to be heard. In case of protest against such change duly signed and acknowledged by the owners of 20 percent or more of the areas of land included in such proposed amendment, supplement or change, or by the owners of 20 percent or more of the area of land immediately adjacent extending 100 feet there from or by the owners of 20 percent or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment, supplement or change shall not become effective except by the favorable vote of three-fourths of the members of the Village Board. Because there is a Planning commission, state law requires that the changes or amendments go through that body first.

(b) CONDITIONAL USE PERMITS. The procedure for issuance of conditional use permits is as follows:

(1) The applicant for a conditional use permit shall complete the application form provided by the Village Clerk and make payment of the application fee as established by the Village Board.

(2) A conditional use permit application shall, at a minimum, include all of the following:

(a) A narrative statement describing the development character, all intended uses, and operation of any business on the site.

(b) Description of the site by lot, block and recorded subdivision or by metes and bounds; address of the site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site is located. For floodplain conditional uses,

such description shall also include information that is necessary for the Plan Commission to determine whether the proposed development will hamper flood flows, impair floodplain storage capacity or cause danger to human or animal life. This additional information may include plans certified by a registered professional engineer or land surveyor, showing elevations or contours of the ground; fill or storage elevations; first floor elevations of structures; size, location and spatial arrangement of all existing and proposed structures on the site; location and elevation of streets, water supply and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types and other pertinent information.

(c) A general development plan showing at least the following information in sufficient detail:

1. The size, arrangement and location of any proposed lots.

2. All existing and proposed public and private roads, sidewalks, paths, driveways, parking facilities, signage, lighting and landscaping. All roads, parking/loading areas and walks shall be paved with hard surface material meeting applicable specifications of the Public Works Department.

3. The type, size, height and location of any existing or proposed structures including setbacks.

(d) Appropriate statistical data on the size of the development, residential density, ratio of various land uses, open space calculations, estimated cost of structures, and any other pertinent data.

(e) Building plans and architectural drawings of all proposed structures in sufficient detail such that the uses, scale, and aesthetic nature of the building(s) can be determined.

(f) Plat of survey prepared by a registered land surveyor showing all of the information required for a building permit and, in addition, the mean and historic high water lines and floodlands on or within 40 feet of the subject premises and existing and proposed landscaping. The plat of survey shall also show all lands located within 350 feet of any part of the site. The Building Inspector may approve a sketch drawn to scale in lieu of a plat of survey.

(g) Additional information as may be required by the Plan Commission, Village Engineer, Building Inspector or Village Board.

(3) The Clerk shall refer the application to the Plan Commission for consideration and recommendation. The Plan Commission shall consider the application and shall review the site, existing and proposed structures, proposed plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed plan of operation. Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, parking requirements, etc. may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this chapter. The Plan Commission shall report its recommendation to the Village Board within 45 days of the date the complete application has been referred to the Plan Commission.

(4) The applicant and/his/her representative (if any) shall appear before the Plan Commission in order to answer any questions concerning the proposed conditional use.

(5) The report of the Plan Commission shall be placed on the agenda of the Village Board at its next regular or special meeting following receipt of the Plan Commission's report. The Village Board shall schedule a public hearing on the petition. A notice of public hearing shall be published once each week for two consecutive weeks in the official newspaper of the Village as a Class 2 notice. Notice of the public hearing shall be mailed by regular first class mail to all parties in interest at least 10 days prior to the hearing. "Parties in interest" shall be defined as the applicant, the clerk of any municipality whose boundaries are within 350 feet of any part of the site, the owner of the site and the owners of all lands located within 350 feet of any part of the site. Compliance with this subparagraph shall not be a condition precedent to proper legal notice and no hearing or action taken thereon shall be deemed invalid or illegal because of any failure to mail notices provided for in this subparagraph.

(6) Following consideration of the Plan Commission's report and the public hearing, the Village Board may take action on the application. If the Village Board grants the conditional use

permit, the Village Board may impose any conditions it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate.

(7) A conditional use permit shall terminate when the Village Board determines any of the following:

(a) The permit holder has failed to comply with the conditions of the permit or the conditional use has otherwise not continued in conformity with the conditions of the permit.

(b) A change in the character of the surrounding area or in the conditional use itself causes such use to be no longer compatible with the surrounding uses.

(c) The use or the characteristics of the use have changed without amending the permit and obtaining approval of the Village Board.

(d) The conditional use has been discontinued for a period of 12 consecutive or 18 cumulative months in a three year period. A business of a seasonal nature shall not be deemed discontinued during periods in which it is normally inactive (i.e., summer camps, snowmobile courses, ski areas, quarries, etc.). Upon such determination, the owner of the site shall be required to bring all such lands and buildings into conformity with the district regulations of the district in which such former conditional use is located, and all other provisions of this chapter within 90 days from such determination.

Prior to terminating a conditional use permit, the Village Board shall hold a public hearing, giving public notice as specified in section 9.01(13)(b)(5) of this ordinance. The termination of the conditional use shall not result in any nonconforming rights and the entire use shall be ceased. The property formerly the subject of the conditional use shall thereafter be used only in conformity with the current zoning and other village ordinances and regulations.

(14) ENFORCEMENT.

(a) It shall be the duty of the building inspector, with the aid of the village marshal, to enforce the provisions of this ordinance. The building inspector shall keep a record of all permits and certificates issued by him, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in land or buildings. The building inspector shall also keep a record

of all nonconforming uses, indicating any extension or changes thereof, with the dates of such changes or extension.

(14A) LAND USE PERMIT.

(a) No building shall hereafter be erected, moved or structurally altered until a land use permit therefore shall have been applied for and issued.

(b) No land use permit shall be required for the necessary and customary construction, reconstruction or maintenance of overground or underground public utility neighborhood service lines and mechanical appurtenances.

(c) All applications for a land use permit shall be accompanied by a location sketch in duplicate, drawn to scale, showing the location, actual size and dimensions of the lot to be built upon, the exact size and location of the lot of the proposed or existing building and accessory building, the lines within which the building shall be erected, altered or moved, the existing or intended use of each building or part of a building, the number of families the building is intended to accommodate, and such other information with regard to the lot and neighboring lots or buildings as may be necessary to determine and provide for the enforcement of this ordinance.

(d) All dimensions shown relating to the location and size of the lot shall be based upon an actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.

(e) Except as otherwise provided in this ordinance, the building inspector shall issue or refuse to issue a land use permit within 10 days after receipt of an application therefore. Refusal to issue a land use permit shall be given in writing, with the reasons for such refusal.

(14B) CERTIFICATE OF COMPLIANCE.

(a) No vacant land shall be occupied or used, no building hereafter erected, altered or moved shall be occupied and no nonconforming use shall be maintained, renewed, changed or extended until a certificate of compliance shall have been issued by the building inspector. Such certificate shall show that the building or premises or part thereof and the proposed use thereof are in

conformity with the provisions of this ordinance. Such certificate shall be applied for when application is made for a land use permit and shall be issued within 10 days after the completion of the work specified in such land use permit application, but only if the building or premises and the proposed use thereof conform with all the requirements of this ordinance.

(b) Under such rules and regulations as may be established by the Village Board, the building inspector may issue a temporary certificate of compliance for part of a building.

(c) Upon written request from the owner, the building inspector shall issue a certificate of compliance for any building or premises existing at the time of the adoption of this ordinance, certifying, after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to the provisions of the ordinance.

(15) VIOLATIONS AND PENALTIES. Any building or structure hereafter erected, moved or structurally altered or any use hereafter established in violation of any of the provisions of this ordinance shall be deemed an unlawful building, structure or use. The building inspector shall promptly report all such violations to the village attorney, who shall bring action to enjoin the erection, moving or structural alteration of such building or the establishment of such use or to cause such building, structure or use to be vacated or removed. Any person, firm or corporation who violates, disobeys, neglects, omits or refuses to comply with, or who resists the enforcement of any of the provisions of this ordinance may be also required, upon conviction, to forfeit not less than \$25.00 nor more than \$500.00 for each offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the county jail of Calumet County until said forfeiture and costs are paid, but not to exceed 30 days for each violation. Each day that a violation continues to exist shall constitute a separate offense.

(16) ANNEXED TERRITORY. All new territory annexed to the Village shall automatically become a part of Single Family Residence District R-1 and all the provisions of this Chapter applicable in Residence District R-1 shall apply to all such annexed territory until definite district boundaries and regulations for such annexed territory are adopted by the Village Board, provided definite district boundaries and regulations for such annexed territory shall be adopted by the Village Board within 90 days from the date of annexation to the Village.

(17) VALIDITY. Should any section, clause or provision of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of this ordinance as a whole or any part thereof, other than the part so declared to be invalid.

(18) CONFLICTING PROVISIONS REPEALED. All ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed.

(19) This code of zoning was recommended to the Village Board by the Village of Hilbert Planning Commission.